

EXHIBIT 5

Rothstein, James K.

From: Leigh, Daniel
Sent: Friday, February 19, 2021 9:55 AM
To: floragunn-service@kblfirm.com
Cc: #Elasticsearch-Floragunn
Subject: Hendrik Saly Deposition Notice
Attachments: 2021.02.19 Hendrik Saly Deposition Notice.pdf

Counsel:

Attached, please find a notice for Hendrik Saly's deposition on March 4, 2021 at 8:00am PT. Due to your ongoing refusal to provide a date for Mr. Saly's deposition despite our ongoing requests beginning in November 2020 for such a date, we have chosen March 4, 2021. We remain available to meet and confer about scheduling for Mr. Saly's deposition.

Best,
Daniel

O'Melveny

Daniel H. Leigh

dleigh@omm.com

O: +1-415-984-8921

M: +1-206-465-8188

O'Melveny & Myers LLP
Two Embarcadero Center, 28th Floor
San Francisco, CA 94111
[Website](#) | [LinkedIn](#) | [Twitter](#)

This message and any attached documents contain information from the law firm of O'Melveny & Myers LLP that may be confidential and/or privileged. If you are not the intended recipient, you may not read, copy, distribute, or use this information. If you have received this transmission in error, please notify the sender immediately by reply e-mail and then delete this message.

1 DAVID R. EBERHART (S.B. #195474)
deberhart@omm.com
2 JAMES K. ROTHSTEIN (S.B. #267962)
jrothstein@omm.com
3 DANIEL H. LEIGH (S.B. #310673)
dleigh@omm.com
4 O'MELVENY & MYERS LLP
Two Embarcadero Center
5 28th Floor
San Francisco, California 94111-3823
6 Telephone: +1 415 984 8700
Facsimile: +1 415 984 8701

7 Attorneys for Plaintiffs
8 ELASTICSEARCH, INC. and
ELASTICSEARCH B.V.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

13 ELASTICSEARCH, INC., a Delaware
14 corporation, and ELASTICSEARCH B.V., a
Dutch corporation.

Plaintiffs,

V

17 FLORAGUNN GmbH, a German corporation,
18 Defendant.

Defendant

Case No. 4:19-cv-05553-YGR

**PLAINTIFFS ELASTICSEARCH, INC.
AND ELASTICSEARCH B.V.'S
NOTICE OF DEPOSITION OF
HENDRIK SALY**

Date: March 4, 2021
Time: 8:00 a.m. Pacific Time
Location: Videoconference

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **NOTICE IS HEREBY GIVEN** that, pursuant to Federal Rule of Civil Procedure 30 and
3 other applicable rules, Plaintiffs will take the deposition upon oral examination of Defendant's
4 Chief Technology Officer, Hendrik Saly, on March 4, 2021 at 8:00 a.m. Pacific Time, until
5 completed.

6 In accordance with California and San Francisco County Orders regarding the COVID-19
7 State of Disaster (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/limited-stay-at-home-order.aspx>; <https://www.sfdph.org/dph/alerts/files/C19-07-Shelter-in-Place-Health-Order.pdf>), and/or any related orders in place on the deposition date, this deposition will be taken
9 via remote video conference. Prior to the deposition, the deponent and counsel for the parties will
10 be sent invitations containing a hyperlink to participate in the deposition. The deposition will be
11 taken before an officer authorized by the State of California to administer the oath to Plaintiff.
12

13 **NOTICE IS FURTHER GIVEN**, pursuant to Rule 30(b) of the Federal Rules of Civil
14 Procedure, that deposition testimony may be recorded by audiotape and/or videotape, in addition
15 to being recorded by the stenographic method by a court reporter who will participate in the
16 deposition by remote video conference from another location.

17 **NOTICE IS FURTHER GIVEN** that the following technology may be utilized during
18 this deposition: (1) Exhibit Capture (picture-in-picture) technology in which any exhibit reviewed
19 by the deponent during the deposition can be captured visually; and (2) Exhibit Share or a similar
20 paperless virtual display platform, which permits a paperless exhibit display process. Defendant,
21 the deponent, and counsel are advised that in lieu of a paper set of exhibits, exhibits may be
22 provided and displayed digitally to the deposition officer, deponent, and counsel. The exhibits
23 will be compiled by the deposition officer for the purposes of exhibit stamping, and ultimate
24 production of the final certified transcript.

25 Plaintiffs reserve the right to amend this notice, including to amend the location and format
26 of the deposition.

1 Dated: February 19, 2021

2 DAVID R. EBERHART
3 JAMES K. ROTHSTEIN
4 DANIEL H. LEIGH
5 O'MELVENY & MYERS LLP

6 By: /s/ David R. Eberhart
7 David R. Eberhart

8 Attorneys for Plaintiffs
9 ELASTICSEARCH, INC. and
10 ELASTICSEARCH B.V.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, Daniel H. Leigh, declare: I am over the age of eighteen years and not a party to the within action or proceedings; my business address is: Two Embarcadero Center, 28th Floor, San Francisco, California 94111. On February 19, 2021, I caused to be served the within:

- PLAINTIFFS ELASTICSEARCH, INC. AND ELASTICSEARCH B.V.’S NOTICE OF DEPOSITION OF HENDRIK SALY; AND
- PROOF OF SERVICE

on counsel for Defendant floragunn GmbH at the following email address: floragunn-service@kblfirm.com.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration, made in conformity with 28 U.S.C. § 1746, was executed at San Francisco, California on February 19, 2021.

/s/ Daniel H. Leigh

Daniel H. Leigh